

ORDINANCE NUMBER O- 21161 (NEW SERIES)DATE OF FINAL PASSAGE JAN 08 2020

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 1, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 121.0302; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 125.0150; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 BY RETITLING AND AMENDING SECTION 126.0112, ADDING NEW SECTION 126.0113, AMENDING AND RENUMBERING SECTION 126.0113 TO SECTION 126.0114, RENUMBERING SECTION 126.0114 TO SECTION 126.0115, AND RENUMBERING SECTION 126.0115 TO SECTION 126.0116; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 2 BY AMENDING SECTION 126.0206; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 126.0306; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 BY AMENDING SECTION 126.0405; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTION 126.0506; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 6 BY AMENDING SECTION 126.0606; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 126.0716 AND 126.0723; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 15 BY AMENDING SECTION 132.1515; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 141.0602; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 142.0530; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTIONS 143.0303 AND 143.0375; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 143.0403 AND 143.0473; AND AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 156.0315, ALL RELATING TO DEVELOPMENT ON A PREMISE WITH A UTILIZED DEVELOPMENT PERMIT.

WHEREAS, the City of San Diego desires to amend the procedures to modify a development permit to allow projects to use reduced parking requirements adopted subsequent to the issuance of the development permit; and

WHEREAS, the City also desires to allow development to occur, in certain circumstances, on property with a utilized development permit, where the proposed development

is not included in the scope of the utilized development permit but complies with the applicable land use and zoning regulations; and

WHEREAS, this amendment would streamline the process to allow use of existing development capacity where permitted by the zoning regulations without an amendment to the utilized development permit; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 12, Article 1, Division 3 of the San Diego Municipal Code is amended by amending section 121.0302, to read as follows:

§121.0302 Required Compliance with the Land Development Code

- (a) It is unlawful for any person to maintain or use any *premises* in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions except as provided in Sections 126.0112 or 126.0113, or without a required variance.

(b) through (i) [No change in text.]

Section 2. That Chapter 12, Article 5, Division 1 of the San Diego Municipal Code is amended by amending section 125.0150, to read as follows:

§125.0150 Tolling of Tentative Maps and Associated Development Permits

- (a) Pursuant to *Subdivision Map Act* Section 66452.6(c), an *applicant* may request a tolling of the expiration of an approved or conditionally approved *tentative map* for up to 5 years while a lawsuit involving the approval or conditional approval of the *tentative map* is or was pending in a court of competent jurisdiction. Associated *development permits* may also be tolled in accordance with Sections 125.0150 and 126.0116.

(b) through (e) [No change in text.]

Section 3. That Chapter 12, Article 6, Division 1 of the San Diego Municipal Code is amended by retitling and amending section 126.0112, adding new section 126.0113, amending and renumbering section 126.0113 to section 126.0114, renumbering section 126.0114 to section 126.0115, and renumbering section 126.0115 to section 126.0116, to read as follows:

§126.0112 Modifications to a Development Permit

- (a) A proposed modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit.
- (b) [No change in text.]
- (c) Where a *development permit* requires compliance with a regulation in effect on the date of approval, but that regulation is subsequently amended, the *permit holder* may utilize the amended regulation without obtaining an amendment to its *development permit* if the *permit holder* can demonstrate to the satisfaction of the City Manager that the resulting *development* is in *substantial conformance* with the approved *development permit*.
- (d) If a determination of *substantial conformance* cannot be made for a *development* seeking to utilize an amended regulation in accordance with Section 126.0112(c), the *permit holder* may utilize the amended regulation if the *permit holder* obtains a Process Two Neighborhood Development Permit.

- (e) Within the Coastal Overlay Zone, any *substantial conformance* determination shall be decided in accordance with Process Two, except that a *substantial conformance* determination for a *capital improvement program project* shall be reached through a Process CIP-Two review.

§126.0113 Development on a Premises with a Utilized Development Permit

The purpose of this Section is to allow a change in *development* to occur on a *premises* that has a utilized *development permit* in accordance with Section 126.0108, when the proposed *development* is not included within the scope of the utilized *development permit* but complies with the use and *development* regulations of the applicable base zone or overlay zone.

- (a) *Development* that is not included within the scope of a utilized *development permit* may be approved without an amendment to the *development permit* in accordance with Process One, subject to all of the following:
 - (1) The proposed use is listed as a permitted use in the applicable base zone and overlay zones, or listed as a limited use and the proposed *development* complies with all limited use regulations;
 - (2) The proposed *development* complies with all *development* regulations of the applicable base zone and overlay zones, except through the use of incentives or waivers as provided in Chapter 14, Article 3, Division 7;
 - (3) The proposed *development* does not require additional *development permits*; and

- (4) Except as permitted by Section 126.0112, all *development* within the scope of the utilized *development permit* that has received a *construction permit* complies with the applicable conditions of the *development permit*.
- (b) If the utilized *development permit* was approved concurrently with an individual, project-specific rezone action, a *permit holder* cannot rely on the provisions of Section 126.0113(a) for a proposed *development* unless:
 - (1) A comprehensive community land use plan was adopted or updated after the utilized *development permit* was approved; or
 - (2) The utilized *development permit* allowed the maximum development allowed under the base zone and applicable overlay zones, accounting for any building restricted easements required as part of the *development*.

§126.0114 Amendments to a Development Permit

- (a) [No change in text.]
- (b) A proposed change in use from one use category to another or the change, addition, or deletion of a use within the same use category may require an amendment to a Neighborhood Use Permit or a Conditional Use Permit, depending on the uses allowed by the permit, except as provided in Sections 126.0112 or 126.0113.
- (c) through (d) [No change in text.]

(e) Within the Coastal Overlay Zone, a proposed change in use which will result in an intensification of use requires an amendment or a new Coastal Development Permit.

(f) [No change in text.]

§126.0115 Closing of Development Permit Application

[No change in text.]

§126.0116 Tolling of a Development Permit

[No change in text.]

Section 4. That Chapter 12, Article 6, Division 2 of the San Diego Municipal Code is amended by amending section 126.0206, to read as follows:

§126.0206 Violations of a Neighborhood Use Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of the Neighborhood Use Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

Section 5. That Chapter 12, Article 6, Division 3 of the San Diego Municipal Code is amended by amending section 126.0306, to read as follows:

§126.0306 Violations of a Conditional Use Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Conditional Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Conditional Use Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

Section 6. That Chapter 12, Article 6, Division 4 of the San Diego Municipal Code is amended by amending section 126.0405, to read as follows:

§126.0405 Violations of a Neighborhood Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Development Permit if such a permit is required for that use or *development* or to maintain, use or develop any *premises* contrary to the requirements or conditions of an existing Neighborhood Development Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

Section 7. That Chapter 12, Article 6, Division 5 of the San Diego Municipal Code is amended by amending section 126.0506, to read as follows:

§126.0506 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Site Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Site Development Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

Section 8. That Chapter 12, Article 6, Division 6 of the San Diego Municipal Code is amended by amending section 126.0606, to read as follows:

§126.0606 Violations of a Planned Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Planned Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Planned Development Permit, except as provided in Sections 126.0112 or 126.0113. Violations of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violation of this Division shall be treated as strict liability offenses regardless of intent.

Section 9. That Chapter 12, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 126.0716 and 126.0723, to read as follows:

§126.0716 Modifications and Amendments to a Coastal Development Permit

Modifications and amendments to a previously approved Coastal Development Permit issued by the City shall be decided in accordance with Sections 126.0112 and 126.0114.

§126.0723 Violations of a Coastal Development Permit

It is unlawful for any person to maintain, use, or undertake *coastal development* on any lot or *premises* without a Coastal Development Permit if such a permit is required for the use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Coastal Development Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

Section 10. That Chapter 13, Article 2, Division 15 of the San Diego Municipal Code is amended by amending section 132.1515, to read as follows:

§132.1515 Safety Compatibility

Safety compatibility between airport operations and proposed *development* within Review Area 1 of this overlay zone shall be evaluated in accordance with this Section.

(a) through (c) [No change in text.]

(d) An *applicant* may request approval of a Neighborhood Development Permit for a non-residential *development* where an alternative method of calculation is requested to demonstrate compliance with the maximum

intensity (people per acre).

(1) through (2) [No change in text.]

(3) The *development permit* shall specify the maximum intensity for the site, and shall require amendment of the *development permit* in accordance with Section 126.0114 for any future *development* that would exceed the maximum intensity specified in the permit.

(4) [No change in text.]

(e) through (g) [No change in text.]

Section 11. That Chapter 14, Article 1, Division 6 of the San Diego Municipal Code is amended by amending section 141.0602, to read as follows:

§141.0602 Assembly and Entertainment Uses, Including Places of Religious Assembly

This use category applies to facilities designed to accommodate at least 25 people at a time for recreation, physical fitness, entertainment, or other assembly, including places of religious assembly. Assembly and entertainment uses are permitted as a limited use in accordance with Process One in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (b). Assembly and entertainment uses may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (c).

(a) General Regulations

(1) [No change in text.]

(2) Assembly and entertainment uses shall provide off-street parking according to Table 142-05G. Within *transit priority areas*, parking may be reduced below the minimum required for residential *development*. The reduction in parking allowed shall be limited to the footprint of the residential *structure* and any required landscape or open space for the residential *development*.

(3) [No change in text.]

(b) through (c) [No change in text.]

Section 12. That Chapter 14, Article 2, Division 5 of the San Diego Municipal Code is amended by amending section 142.0530, to read as follows:

§142.0530 Nonresidential Uses — Parking Ratios

(a) through (b) [No change in text.]

(c) Nonresidential Uses. Table 142-05G establishes the required ratio of parking spaces to building *floor* area for the nonresidential uses shown that are not covered by the parking requirements in Section 142.0530(a) and (b).

**Table 142-05G
Parking Ratios for Specified Non-Residential Uses**

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)		
	Required Automobile Parking Spaces ⁽¹⁾		
	Minimum Required Outside a <i>Transit Area</i> or <i>Transit Priority Area</i>	Minimum Required Within a <i>Transit Area</i> or <i>Transit Priority Area</i> ⁽²⁾	Maximum Permitted
Institutional through Commercial Services, Swimming	[No change in text.]		

pools [No change in text.]			
All other assembly and entertainment	10 per 1,000 square feet of assembly area	85% of Minimum ⁽⁷⁾	N/A
Visitor accommodations through Industrial, All industrial uses in the IS Zone [No change in text.]	[No change in text.]		

Footnotes For Table 142-05G

¹ through ⁶ [No change in text.]

⁷ Except as provided in Section 141.0602(a)(2)

(d) through (h) [No change in text.]

Section 13. That Chapter 14, Article 3, Division 3 of the San Diego Municipal Code is amended by amending sections 143.0303 and 143.0375, to read as follows:

§143.0303 Permitted Uses with Neighborhood Development Permits and Site Development Permits

The following regulations apply to all Neighborhood Development Permits or Site Development Permits.

- (a) [No change in text.]
- (b) Changes of use on a *premises* do not require an amendment of the approved Neighborhood Development Permit or Site Development Permit if the proposed use is permitted in the applicable zone and complies with Sections 126.0112 or 126.0113.
- (c) [No change in text.]

§143.0375 Maintenance Requirements for Neighborhood Development Permits and Site Development Permits

All *development* approved with a Neighborhood Development Permit or Site Development Permit is subject to the following regulations.

- (a) All *developments* shall be constructed and maintained in accordance with the approved plans and conditions contained in the Neighborhood Development Permit or Site Development Permit, except as provided in Sections 126.0112 or 126.0113.
- (b) [No change in text.]

Section 14. That Chapter 14, Article 3, Division 4 of the San Diego Municipal Code is amended by amending sections 143.0403 and 143.0473, to read as follows:

§143.0403 Permitted Uses with a Planned Development Permit

The following regulations apply to all Planned Development Permits.

- (a) [No change in text.]
- (b) Changes of use on a *premises* do not require an amendment of the approved Planned Development Permit, if the proposed use is permitted in the applicable zone and complies with Sections 126.0112 or 126.0113.
- (c) [No change in text.]

§143.0473 Maintenance Requirements for Planned Development Permits

All approved Planned Development Permits must be maintained in compliance with the following regulations:

- (a) All *developments* shall be constructed and maintained in accordance with the approved plans and conditions contained within the approved Planned Development Permit, except as provided in Sections 126.0112 or 126.0113.
- (b) [No change in text.]

Section 15. That Chapter 15, Article 6, Division 3 of the San Diego Municipal Code is amended by amending section 156.0315, to read as follows:

§156.0315 Separately Regulated Uses

(a) through (d) [No change in text.]

(e) *Alternative Interim Uses* within Neighborhood Mixed Use Centers and along *Main Streets* and *Commercial Streets* are permitted upon approval of a Conditional Use Permit in accordance with Process Three, when the following *findings* are made:

(1) through (2) [No change in text.]

The initial term for a Conditional Use Permit permitting *Alternative Interim Uses* shall not exceed a ten-year period.

Extensions may be approved in accordance with Section 126.0114, but shall not exceed an additional ten-year period.

(f) through (j) [No change in text.]

Section 16. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 17. Prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

If the SDCRAA finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of

consistency, or on the thirtieth day from and after its final passage, whichever is later, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

If the SDCRAA determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the City Council for reconsideration.

If the SDCRAA determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the City Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.


A proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to California Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the SDCRAA, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by

the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

If the City Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth day from and after that final decision, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 18. That Ordinances O-21118, O-21114, O-21115, O-21116, O-21117 and O-2020-64 have been recently considered by the City Council; that Ordinances O-2020-65, and O-2020-66, O-2020-68 will be considered concurrently by the City Council; and that Ordinances O-2020-9, O-2020-3 will be considered by the City Council in the near future which amend San Diego Municipal Code sections also amended by this Ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text within these sections upon the final passage of the Ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Heather M. Ferbert
Deputy City Attorney

HMF:soc
11/26/19
Or.Dept: Planning
Doc. No.: 2201428

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 07 2020.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1/8/2020
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 1, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 121.0302; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 125.0150; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 BY RETITLING AND AMENDING SECTION 126.0112, ADDING NEW SECTION 126.0113, AMENDING AND RENUMBERING SECTION 126.0113 TO SECTION 126.0114, RENUMBERING SECTION 126.0114 TO SECTION 126.0115, AND RENUMBERING SECTION 126.0115 TO SECTION 126.0116; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 2 BY AMENDING SECTION 126.0206; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 126.0306; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 BY AMENDING SECTION 126.0405; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTION 126.0506; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 6 BY AMENDING SECTION 126.0606; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 126.0716 AND 126.0723; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 15 BY AMENDING SECTION 132.1515; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 141.0602; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 142.0530; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTIONS 143.0303 AND 143.0375; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 143.0403 AND 143.0473; AND AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 156.0315, ALL RELATING TO DEVELOPMENT ON A PREMISE WITH A UTILIZED DEVELOPMENT PERMIT.

§121.0302 Required Compliance with the Land Development Code

- (a) It is unlawful for any person to maintain or use any *premises* in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions except as provided in Sections 126.0112 or 126.0113, or without a required variance.
- (b) through (i) [No change in text.]

§125.0150 Tolling of Tentative Maps and Associated Development Permits

- (a) Pursuant to *Subdivision Map Act* Section 66452.6(c), an *applicant* may request a tolling of the expiration of an approved or conditionally approved *tentative map* for up to 5 years while a lawsuit involving the approval or conditional approval of the *tentative map* is or was pending in a court of competent jurisdiction. Associated *development permits* may also be tolled in accordance with Sections 125.0150 and 126.01156.
- (b) through (e) [No change in text.]

§126.0112 ~~Minor~~ Modifications to a Development Permit

- (a) A proposed ~~minor~~ modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit.
- (b) [No change in text.]
- (c) Where a *development permit* requires compliance with a regulation in effect on the date of approval, but that regulation is subsequently amended, the *permit holder* may utilize the amended regulation without obtaining an amendment to its *development permit* if it ~~obtains a Process Two Neighborhood Development Permit~~, or the *permit holder* can

demonstrate to the satisfaction of the City Manager that the resulting *development* is in *substantial conformance* with the approved *development permit*.

(d) If a determination of *substantial conformance* cannot be made for a *development* seeking to utilize an amended regulation in accordance with Section 126.0112(c), the *permit holder* may utilize the amended regulation if the *permit holder* obtains a Process Two Neighborhood Development Permit.

~~(d)~~(e) Within the Coastal Overlay Zone, any *substantial conformance* determination shall be decided in accordance with Process Two, except that a *substantial conformance* determination for a *capital improvement program project* shall be reached through a Process CIP-Two review.

§126.0113 **Development on a Premises with a Utilized Development Permit**

The purpose of this Section is to allow a change in *development* to occur on a *premises* that has a utilized *development permit* in accordance with Section 126.0108, when the proposed *development* is not included within the scope of the utilized *development permit* but complies with the use and *development* regulations of the applicable base zone or overlay zone.

(a) *Development* that is not included within the scope of a utilized *development permit* may be approved without an amendment to the *development permit* in accordance with Process One, subject to all of the following:

- (1) The proposed use is listed as a permitted use in the applicable base zone and overlay zones, or listed as a limited use and the proposed development complies with all limited use regulations;
 - (2) The proposed development complies with all development regulations of the applicable base zone and overlay zones, except through the use of incentives or waivers as provided in Chapter 14, Article 3, Division 7;
 - (3) The proposed development does not require additional development permits; and
 - (4) Except as permitted by Section 126.0112, all development within the scope of the utilized development permit that has received a construction permit complies with the applicable conditions of the development permit.
- (b) If the utilized development permit was approved concurrently with an individual, project-specific rezone action, a permit holder cannot rely on the provisions of Section 126.0113(a) for a proposed development unless:
- (1) A comprehensive community land use plan was adopted or updated after the utilized development permit was approved; or
 - (2) The utilized development permit allowed the maximum development allowed under the base zone and applicable overlay zones, accounting for any building restricted easements required as part of the development.

§126.01134 Amendments to a Development Permit

- (a) [No change in text.]
- (b) A proposed change in use from one use category to another or the change, addition, or deletion of a use within the same use category may require an amendment to a Neighborhood Use Permit or a Conditional Use Permit, depending on the uses allowed by the permit, except as provided in Sections 126.0112 or 126.0113.
- (c) through (d) [No change in text.]
- (e) Within the Coastal Overlay Zone, a proposed change in use which will result in ~~a change in intensity~~ an intensification of use requires an amendment or a new Coastal Development Permit.
- (f) [No change in text.]

§126.01145 Closing of Development Permit Application

[No change in text.]

§126.01156 Tolling of a Development Permit

[No change in text.]

§126.0206 Violations of a Neighborhood Use Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of the Neighborhood Use Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this ~~d~~Division shall

be subject to the enforcement provisions contained in Chapter 12, Article 1.

Violations of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§126.0306 Violations of a Conditional Use Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Conditional Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Conditional Use Permit, except as provided in

Sections 126.0112 or 126.0113. Violation of any provision of this ~~d~~Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1.

Violations of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§126.0405 Violations of a Neighborhood Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Development Permit if such a permit is required for that use or *development* or to maintain, use or develop any *premises* contrary to the requirements or conditions of an existing Neighborhood Development Permit,

except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this ~~d~~Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§126.0506 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Site Development Permit if such a permit is required for the use or *development*,

or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Site Development Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this ~~d~~Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§126.0606 Violations of a Planned Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Planned Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Planned Development Permit, except as provided in Sections 126.0112 or 126.0113. Violations of any provision of this ~~d~~Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violation of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§126.0716 Modifications and Amendments to a Coastal Development Permit

~~Minor m~~Modifications and amendments to a previously approved Coastal Development Permit issued by the City shall be decided in accordance with Sections 126.0112 and 126.01134.

§126.0723 Violations of a Coastal Development Permit

It is unlawful for any person to maintain, use, or undertake *coastal development* on any lot or *premises* without a Coastal Development Permit if such a permit is required for the use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Coastal Development

Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this ~~d~~Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this ~~d~~Division shall be treated as strict liability offenses regardless of intent.

§132.1515 Safety Compatibility

Safety compatibility between airport operations and proposed *development* within Review Area 1 of this overlay zone shall be evaluated in accordance with this Section.

(a) through (c) [No change in text.]

(d) An *applicant* may request approval of a Neighborhood Development Permit for a non-residential *development* where an alternative method of calculation is requested to demonstrate compliance with the maximum intensity (people per acre).

(1) through (2) [No change in text.]

(3) The *development permit* shall specify the maximum intensity for the site, and shall require amendment of the *development permit* in accordance with Section 126.0113~~4~~ for any future *development* that would exceed the maximum intensity specified in the permit.

(4) [No change in text.]

(e) through (g) [No change in text.]

§141.0602 Assembly and Entertainment Uses, Including Places of Religious Assembly

This use category applies to facilities designed to accommodate at least 25 people at a time for recreation, physical fitness, entertainment, or other assembly, including places of religious assembly. Assembly and entertainment uses are

permitted as a limited use in accordance with Process One in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (b). Assembly and entertainment uses may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (c).

(a) General Regulations

(1) [No change in text.]

(2) Assembly and entertainment uses shall provide off-street parking according to the following: Table 142-05G. Within transit priority areas, parking may be reduced below the minimum required for residential development. The reduction in parking allowed shall be limited to the footprint of the residential structure and any required landscape or open space for the residential development.

(A) ~~If the specific type of assembly and entertainment use is specified in Table 142-05G, the applicable off-street parking standard in Table 142-05G shall apply.~~

(B) ~~If the specific type of assembly and entertainment use is not specified in Table 142-05G, off-street parking spaces shall be provided as follows:~~

(i) ~~If seating is fixed, one parking space shall be provided per three seats in the assembly~~

~~area or one parking space per 60 inches of bench or pew seating space, whichever is greater.~~

~~(ii) If seating is not fixed, 30 parking spaces shall be provided per 1,000 square feet of assembly area.~~

(3) [No change in text.]

(b) through (c) [No change in text.]

§142.0530 Nonresidential Uses — Parking Ratios

(a) through (b) [No change in text.]

(c) Nonresidential Uses. Table 142-05G establishes the required ratio of parking spaces to building *floor* area for the nonresidential uses shown that are not covered by the parking requirements in Section 142.0530(a) and (b).

**Table 142-05G
Parking Ratios for Specified Non-Residential Uses**

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor</i> Area Unless Otherwise Noted (<i>Floor</i> Area Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)		
	Required Automobile Parking Spaces ⁽¹⁾		
	Minimum Required Outside a <i>Transit Area</i> or <i>Transit Priority Area</i>	Minimum Required Within a <i>Transit Area</i> or <i>Transit Priority Area</i> ⁽²⁾	Maximum Permitted
Institutional through Commercial Services, Swimming pools [No change in text.]	[No change in text.]		
All other assembly and entertainment	1 per 3 seats or 1 per 60 inches of bench or pew seating, whichever is greater; or 30 per 1,000	85% of Minimum ⁽²⁾	N/A

	square feet of assembly area if seating is not fixed		
Visitor accommodations through Industrial, All industrial uses in the IS Zone [No change in text.]	[No change in text.]		

Footnotes For Table 142-05G

¹ through ⁶ [No change in text.]

² Except as provided in Section 141.0602(a)(2)

(d) through (h) [No change in text.]

§143.0303 Permitted Uses with Neighborhood Development Permits and Site Development Permits

The following regulations apply to all Neighborhood Development Permits or Site Development Permits.

(a) [No change in text.]

(b) Changes of use on a *premises* do not require an amendment of the approved Neighborhood Development Permit or Site Development Permit if the proposed use is permitted in the applicable zone and ~~no exterior modifications to the existing *structures* or associated exterior facilities are being made to accommodate the proposed use change~~ complies with Sections 126.0112 or 126.0113. ~~Proposed changes of use that require exterior modifications to the existing *structures* require an amendment to the approved Neighborhood Development Permit or Site Development Permit when the modifications are not in *substantial conformance* with the approved permit.~~

(c) [No change in text.]

§143.0375 Maintenance Requirements for Neighborhood Development Permits and Site Development Permits

All *development* approved with a Neighborhood Development Permit or Site Development Permit is subject to the following regulations.

- (a) All *developments* shall be constructed and maintained in accordance with the approved plans and conditions contained in the Neighborhood Development Permit or Site Development Permit, except as provided in Sections 126.0112 or 126.0113.
- (b) [No change in text.]

§143.0403 Permitted Uses with a Planned Development Permit

The following regulations apply to all Planned Development Permits:

- (a) [No change in text.]
- (b) Changes of use on a *premises* ~~will do~~ not require an amendment of the approved Planned Development Permit, if the proposed use is permitted in the applicable zone and ~~no exterior modifications to the existing structures or associated exterior facilities will be required to accommodate the proposed use change~~ complies with Sections 126.0112 or 126.0113. ~~Proposed changes of use that will result in exterior modifications to the existing structures require an amendment to the approved Planned Development Permit when the modifications are not in substantial conformance with the approved Planned Development Permit.~~
- (c) [No change in text.]

§143.0473 Maintenance Requirements for Planned Development Permits

All approved Planned Development Permits must be maintained in compliance with the following regulations:

- (a) All *developments* shall be constructed and maintained in accordance with the approved plans and conditions contained within the approved Planned Development Permit, except as provided in Sections 126.0112 or 126.0113.
- (b) [No change in text.]

§156.0315 Separately Regulated Uses

- (a) through (d) [No change in text.]
- (e) *Alternative Interim Uses* within Neighborhood Mixed Use Centers and along *Main Streets* and *Commercial Streets* are permitted upon approval of a Conditional Use Permit in accordance with Process Three, when the following *findings* are made:
 - (1) through (2) [No change in text.]The initial term for a Conditional Use Permit permitting *Alternative Interim Uses* shall not exceed a ten-year period. Extensions may be approved in accordance with Section 126.0113~~4~~, but shall not exceed an additional ten-year period.
- (f) through (j) [No change in text.]

HMF:soc
11/26/19
Or.Dept:Planning
Doc. No.: 2197675

Passed by the Council of The City of San Diego on JAN 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 08 2020

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 17 2019, and on JAN 08 2020.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California.
Ordinance Number O- <u>21161</u>